

REMARKS/ARGUMENTS

Reconsideration of this Application and entry of this Amendment after Final are respectfully requested. The proposed amendment places the claims in better form for appeal. Additionally, this amendment addresses items brought up by the examiner in the final office action. In view of the amendments and following remarks, favorable consideration and allowance of the application is respectfully requested.

Allowable Subject Matter

Claim 5 is objected to as being dependent on a rejected claim, but would be allowable if amended to include all of the limitations of the base claim and any intervening claim. Applicant has amended claim 1, the rejected claim upon which claim 5 depends, to incorporate a feature of the limitation of claim 5. In particular, claim 5 claims a pair of recesses and the lid having a lid having apertures that overlie the recesses when the lid and tray are fitted together. None of the art cited in the office action showed a pair or a single recess with lid having an aperture. Accordingly, Applicant believes claim 1, as amended, should be allowable for the reasons that claim 5 is allowable and in view of an additional limitation added to claim 1 as discussed with respect to the claim 1 rejection below. Applicant has kept claim 5 as dependent on the newly amended claim 1, since claim 5 merely specifies pairs of recesses and corresponding apertures in the tray lid as opposed to claim 1's at least one recess and corresponding aperture.

35 U.S.C. §102 Rejections

Claims 1, 4 and 8 stand rejected under 35 U.S.C. §102(b) as being anticipated by Ross et al. (US Patent 5,318,543). The examiner noted that the functional limitation of the claims regarding "adapted to retain an oxygen or moisture scavenger pack" is met by the Ross reference, even though Ross did not explicitly claim or suggest scavenger packs. Accordingly, Applicant has added the limitation of at least one scavenger pack. Since the Ross reference does not disclose a scavenger pack, each and every limitation of the amended claims are not disclosed in the Ross reference. Accordingly, this rejection must be withdrawn.

35 U.S.C. §103 Rejections

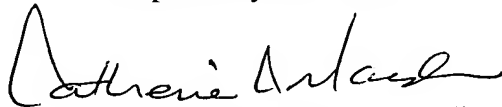
Claims 6 and 7 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ross et al. '543, in view of Brewer (US Patent 4,928,830). The Brewer reference is relied upon to disclose a hinged lid and snap fit securement. The Brewer reference does not discuss or teach the use of scavenger packs. As discussed above, the Ross patent likewise does not disclose or teach use of scavenger packs. Accordingly, regardless of whether there is any motivation to combine the Ross and Brewer disclosures, the modification of Ross by Brewer will not contain the at least one scavenger pack required by the amended claims. Accordingly, this rejection must be withdrawn.

Claim 10 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Ross et al. '543, in view of Holzwarth (US Patent 4,730,726). Claim 10 has been canceled and accordingly, this rejection is moot.

Conclusion

For the foregoing reasons, Applicant believes all the pending claims are in condition for allowance and should be passed to issue. The Commissioner is hereby authorized to charge any additional fees which may be required under 37 C.F.R. 1.17, or credit any overpayment, to Deposit Account No. 01-2525. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at telephone (707) 543-0221.

Respectfully submitted,



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